

BOUNDLESS

May 19, 2021

Samantha Deshommes
Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, MD 20746

Submitted via www.regulations.gov

RE: Request for Public Input: Identifying Barriers Impeding Access to U.S. Citizenship and Immigration Services Benefits and Services
CIS No. 2684-21; DHS Docket No. USCIS-2021-0004
RIN 1615-ZB87

Dear Chief Deshommes:

These comments are submitted for the public record to the United States Department of Homeland Security (DHS) on behalf of [Boundless Immigration Inc.](#) in response to the request for public input on how USCIS can reduce administrative and other barriers within its regulations and policies that impede access to immigration benefits and the fair, efficient adjudications of these benefits.

Boundless is a technology company dedicated to empowering families to navigate the U.S. immigration system more confidently, rapidly, and affordably. Much of its staff has direct and personal experience in navigating the complex, high-stakes U.S. immigration system. Boundless is well aware of the difficult choice that many immigrants face—paying thousands of dollars in legal fees or spending months trying to figure out how to proceed independently. We seek to provide immigrants with a better option, acting as a trusted partner and guide for families throughout their immigration journeys.

As an organization providing tools, information, and personalized support directly to immigrants in the United States, Boundless has unique insight on the impact of the policies instituted over the prior several years. The 2019 Public Charge Final Rule and attendant Form I-944, [now revoked](#), is an example of an [extremely onerous burden for applicants](#), and Boundless commends USCIS on its quick action in rescinding the 2019 Rule and striking the Form I-944. We also look forward to seeing a comprehensive public awareness campaign to ensure that vulnerable communities, including immigrant communities, are aware they can access Covid-19 vaccinations, treatment, and other essential services without fear during this unprecedented public health emergency.

The largest barriers to immigration benefits are crisis-level case processing backlogs, which have been compounded in recent years by highly inefficient policies and practices. These deleterious policies were

deployed along with a noticeable shift away from the agency's mission and core values as a service-oriented adjudicatory agency. The removal of the word "customer" from the USCIS mission statement, ending the availability of walk-in appointments at local field offices, making it excessively difficult to access live assistance or schedule a local appointment through the USCIS Customer Service Center phone line, and shuttering local and national email boxes for case inquiries are all notable examples of impediments to service that have been erected in recent years.

Boundless Immigration welcomes this opportunity and appreciates the approach taken by the Biden Administration in [Executive Order 14012, Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans](#). We are pleased to submit these detailed comments and suggestions to improve access to immigration benefits for USCIS customers.

1. **Solve Crisis-Level Processing Delays.** In recent years, and particularly since the end of FY2017, the overall average case processing time has [surged by 25 percent](#), and much more for several forms. This is despite an estimated 10 percent decrease in overall filings received by USCIS. This incredible increase in processing times is directly tied to several policies implemented in the past four years by the agency itself.

- a. **Overtake Deleterious and Inefficient Agency Policies and Processes.**

Many policies and processes implemented by USCIS in the past four years have served to increase inefficiencies and delays in the adjudicative process. USCIS can very quickly ameliorate the backlog in targeted ways because many of these policies and processes were not instituted by regulation and can thus be quickly overturned or rescinded.

- i. **Rescind PM-602-0180 and Eliminate Unnecessary Interviews.** PM-602-0180, *Expanding Interviews to Refugee/Asylee Relative Petitions*, (11/18/20), extended the interview requirement for Form I-730 to include petitioners in addition to beneficiaries, regardless of location. Additionally, USCIS instituted mandatory interviews for Form I-751, Petition to Remove Conditions on Residency, further increasing processing delays and backlogs at local field offices. USCIS should eliminate these barriers, as well as waive Form I-485 interviews in family-based applications in which the documentary evidence establishes a bona fide marriage by a preponderance of the evidence;
 - ii. **Rescind PM-602-0163, Issuance of Certain RFEs and NOIDs; Revisions to Adjudicator's Field Manual (AFM) Chapter 10.5(a), Chapter 10.5(b),** (7/13/18);
 - iii. **Stop rejecting applications and petitions due to alleged incompleteness or blank spaces.** This policy was originally instituted specifically in regards to humanitarian benefits (e.g., Form I-589, Application for Asylum and for Withholding of Removal, Form I-918, Petition for U Nonimmigrant Status, and Form I-914, Application for T

Nonimmigrant Status), though over time has crept into other applications and petitions for benefits as well, such as the Form I-612 Application for Waiver under §212(e) of the INA. Boundless commends USCIS for [formally rescinding this policy](#) in relation to U Visas, §212(e) waivers, and asylum, but notes that the policy still appears to be impacting other applications and petitions, resulting in high numbers of erroneously or needlessly rejected applications. The policy is highly inefficient and costly to the agency as it wastes the adjudicator's time, wastes the Lockbox's time processing applications at time of receipt, and wastes agency money mailing applications back to applicants for non-material reasons. Boundless encourages USCIS to completely end this policy.

- iv. **More Judicious Issuance of RFEs and NOIDs.** The past several years have seen an unprecedented number of RFEs and NOIDs issued, wasting limited staff resources and greatly increasing the length of time required to adjudicate applications and petitions. Additionally, RFEs and NOIDs are frequently issued seeking evidence that has already been submitted, is irrelevant to the benefit sought, or unnecessary to prove eligibility.
- v. **Retrain Adjudicators on the Appropriate Standards of Proof.** As noted previously, RFEs and NOIDs are frequently issued in error, or seek information that is in excess of what is required to establish eligibility for the benefit sought. The standard of proof in immigration law is typically “preponderance of the evidence” (i.e. “more likely than not”), but in many cases USCIS adjudicators appear to hold applicants to a higher standard. Additionally, USCIS should restore PM-602-0085, *Requests for Evidence and Notices of Intent to Deny*, (6/3/2013), which would help prevent unnecessary statutory denials based on improper evidentiary standards or a lack of sufficient subject matter expertise on the part of the adjudicating officer.
- vi. **Minimize burdensome paperwork requirements.** In recent years, forms used to seek immigration benefits of all varieties have increased in length and complexity. USCIS should revise all forms to avoid duplicative data entry and confusing duplicative questions. This would save time for applicants, adjudicators, and attorneys, and reduce the risk of errors and unnecessary rejections. Opportunities to simplify forms include the following:
 - 1. Form I-485, Application to Register Permanent Residency or Adjust Status – This 18-page form is quite burdensome, including copious questions related to criminal behaviour - over 5 pages of yes-or-no questions related to possible inadmissibility grounds. The majority of these questions will be answered through the standard criminal background check process.

2. Form I-130/I-130A, Petition for Alien Relative – When filed concurrently with Form I-485, much of the information is extremely repetitive relating to spouses, family members, addresses and employment.
3. Form N-400, Application for Naturalization – This 20-page form is burdensome and difficult to complete, and has consistently grown in length and complexity over the past several years, despite there being no changes in the relevant citizenship statutes. The complexity of the form and process dissuades qualified lawful permanent residents (LPRs) from applying, as well as wasting limited adjudicatory resources on duplicative questioning as related to admissibility, good moral character, and criminal or national security history.
4. Form I-912, Request for Fee Waiver – As with other forms highlighted here, the I-912 is burdensome and difficult to complete. In general, means-tested benefits are difficult for applicants to calculate, and the applicability of the rules to various state or local benefits is unclear. For especially common forms like the N-400, the applicant's request for a fee waiver (or fee reduction) should be incorporated into the primary form itself.
5. Form I-129, Petition for Nonimmigrant Worker – This 42-page form is used for over 20 different nonimmigrant classifications, presented as the main I-129 form to be filled out by all petitioners, along with various supplements that are specific to the status classification sought. For this reason, large portions of the form are irrelevant to many petitioners, and confusion and errors related to the supplements is common. To alleviate this confusion USCIS should consider foregoing the use of the various supplements and instead divide Form I-129 into multiple different forms related to the specific benefit or status sought.
6. Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant – This 19-page form is used for about 15 different types of special immigrants, none of which share requirements or overlapping information requests (e.g. religious workers, Amerasians, Special Immigrant Juveniles, and VAWA). As with the I-129, large portions of the form are irrelevant to many petitioners, and confusion and errors related to the supplements are common. This issue is of particular concern when USCIS rejects applications or petitions for alleged incompleteness or blank spaces, especially when USCIS does not use specific terminology to indicate that a space is not applicable. To alleviate

this confusion USCIS should divide Form I-360 into several different forms related to the specific benefit or status sought.

7. Form I-918A, Petition for Qualifying Family Member of U-1 Recipient – This form requires the derivative to sign the form if they are outside of the United States. However this requirement was previously waived by USCIS because not every derivative is able to complete or afford the tasks necessary to submit a digital signature or send forms through international mail. Boundless urges USCIS to return to its prior policy and reinstate the waiver in most situations requiring a derivative's signature when outside the United States.

b. Rescind or Withdraw Burdensome and Harmful Regulatory Actions.

Like the agency policies and procedures outlined above, many of the regulations enacted in recent years have served only to penalize U.S. employers of noncitizens, prevent otherwise lawful employment of noncitizens awaiting adjudication of pending applications or petitions, penalize asylum applicants and unaccompanied minors, or cruelly extend family separations. These regulations damage the United States' ability to build a strong labor force that can compete on the global stage, as well as damaging our standing in the world as a moral leader.

- i. **Rescind 85 FR 63872**, *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States*, (10/8/20);
- ii. **Rescind 85 FR 69236**, *Modification of Registration Requirement for Petitioners Seeking To File Cap-Subject H-1B Petitions*, (11/2/20);
- iii. **Withdraw 85 FR 46788**, *U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirement*, (8/3/20); USCIS should finalize a new [fee rule](#) that raises sufficient revenue for USCIS without posing undue burdens on the most vulnerable users, or those with the least ability to pay higher fees;
- iv. **Rescind Harmful Federal Register Documents and Rules that Seek to Dismantle the U.S. Humanitarian and Asylum Systems.** The past four years have seen a dramatic increase in rules enacted restricting access to asylum, withholding and cancellation of removal, and other forms of humanitarian relief, such as 85 FR 37502, *Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I-765 Employment Authorization Applications*; (6/22/20), and **85 FR 38532**, *Asylum Application, Interview, and Employment Authorization for Applicants*, (6/26/20). Such regulations should be rescinded and/or replaced with humane and effective alternatives.

c. **Reallocate Financial and Human Resources to Address Backlogs.**

Funding in recent years has been reallocated within the agency towards time-consuming and unnecessary forms of extreme security vetting, coupled with a hiring freeze and ever-increasing backlogs. Funds should be appropriately allocated towards increased hiring and training at all Service Centers and Field Offices, as well as at the USCIS Customer Contact Center. The Vermont Service Center in particular must be adequately staffed for purposes of processing the especially extreme U Visa backlog.

2. Expand Access to Electronic Filing. The fact that the majority of forms must still be paper-filed is costly for users and creates needlessly unwieldy A Files for adjudicators to review and store. USCIS should continue to expand the number of forms available for e-Processing, and should also introduce an application programming interface (API) so that attorneys, nonprofit legal service providers, and other trusted intermediaries can more readily help submit forms on behalf of USCIS users.

3. Return USCIS to Its Mission. Finally, USCIS should return to its core values and mission. Restoring the agency's prior mission statement would clearly demonstrate that USCIS has committed itself to what [President Biden has called](#) "our character as a Nation of opportunity and of welcome," ensuring that "our laws and policies encourage full participation by immigrants, including refugees, in our civic life; that immigration processes and other benefits are delivered effectively and efficiently; and that the Federal Government eliminates sources of fear and other barriers that prevent immigrants from accessing government services available to them."

USCIS secures America's promise as a nation of immigrants by providing accurate and useful information to our customers, granting immigration and citizenship benefits, promoting an awareness and understanding of citizenship, and ensuring the integrity of our immigration system.

In recognition of the contributions that immigrants and their families make to our society, a return to a more welcoming, service-oriented mission statement is appropriate and encouraged.

Boundless Immigration applauds the strides already made by USCIS in recent months to improve its transparency, policies, and processes. We hope these cooperative efforts will continue, with the result being a more just, accessible, and efficient immigration system. Thank you again for the opportunity to submit these comments for consideration.

Sincerely,

Xiao Wang
Co-Founder & CEO

Doug Rand
Co-Founder & President

Maggie Riley
Legal Policy & Business Operations